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593-6075UNITED STATES GOVERNMENT  
National Labor Relations Board

## Memorandum

TO : Alex V. Barbour, Director  
Region 13

FROM : Harold J. Datz, Associate General Counsel  
Division of Advice

SUBJECT: Hospital Employees Labor Program  
of Metropolitan Chicago (HELP)  
(Riveredge Hospital)  
Case 13-CG-15

DATE:

NOV 28 1979

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This case was submitted for advice because it involves a novel question arising under Section 8(g) of the Act.

FACTS

On June 14, 1978, HELP (herein the Union) was certified as the collective bargaining representative of certain employees employed by Riveredge Hospital (herein the Hospital). Bargaining for an initial labor agreement began on July 20, 1978.

During the fall of 1978, HELP twice served the Hospital with 10-day strike notices, both of which were withdrawn prior to the day on which a strike or picketing was to commence. Charges alleging that HELP violated Section 8(g) and 8(b)(3) by engaging in this conduct were submitted to Advice, which authorized dismissal on January 30, 1979. 1/

On April 6, 2/ the Hospital received a notice from HELP indicating that it would strike, picket, and/or engage in other concerted activity commencing at 6:00 a.m., April 18. On April 18 and 19, HELP picketed the Hospital from about 6:00 a.m. to about 5:30 p.m. However, on Friday, April 20, HELP ceased its picketing at about 4:30 p.m., and did not resume picketing until about 6:20 a.m., Monday, April 23.

1/ Hospital Employees Labor Program of Metropolitan Chicago (Riveredge Hospital), Cases 13-CG-13 and 13-CB-8221 (Advice Memorandum dated January 30, 1979).

2/ All dates hereafter referred to are in 1979.



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On April 23, the Hospital filed the instant charge alleging that the resumption of picketing after the weekend hiatus, without filing a new Section 8(g) notice, was unlawful. Since then, the Union has continued its pattern of picketing on weekdays but not on weekends.

#### ACTION

It was concluded that the charge should be dismissed, absent withdrawal. While Congress provided in Section 8(g) that a hospital employer is entitled to ten days advance notice of a strike or picketing, Congress cannot reasonably have contemplated " . . . that a labor organization would be required to picket on a non-stop, 24-hour basis in order to avoid new notice requirements". 3/ Accordingly, the General Counsel has determined that charges alleging that resumed picketing violates Section 8(g) should be resolved by applying certain "rules of reason", including the following:

- (1) Where the facts and circumstances of the labor organization strike or picketing hiatus support the reasonable conclusion that the activity has not indefinitely ceased and that it is reasonable to assume that it will commence again, no new notice will be required if the activity recommences within 72 hours of the start of the hiatus; but 12 hours notice to the institution will be required if the activity is to recommence more than 72 hours from the start of the hiatus . . . 4/

Here, the picketing began on a Wednesday at the time set forth in the 10-day notice. Thereafter, through Thursday and Friday, the picketing regularly stopped in the evening and resumed on the following morning. Accordingly, it would have been reasonable for the Hospital to assume that when the picketing did not occur on Saturday morning, this represented only a weekend break, rather than a permanent cessation in the picketing. And, since the hiatus lasted less than 72 hours, no new notice was required for the resumed picketing on Monday. Thus the Union did not violate Section 8(g) by resuming its picketing on Monday morning, April 23, without providing the hospital with a new

3/ General Counsel Memorandum 74-49, Guidelines for Handling Unfair Labor Practice Cases Arising Under the 1974 Non-profit Hospital Amendments to the Act, Section III, D.

4/ Ibid.

Section 8(g) notice. 5/

*HJM*  
H.J.D.

5/ This conclusion is not affected by the Union's previous conduct of issuing, and then withdrawing, two 10-day notices. The conduct here was not a continuation of this conduct, since the picketing here began at precisely the time specified in the notice. Thereafter it stopped and started only at regular week-end intervals. Moreover, charges alleging that the previous conduct violated the Act were dismissed.

